

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

KEITH IVY, by and through	)	
next friend EVA D. IVY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:10CV2126 RWS
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on Keith Ivy's appeal from an adverse ruling of the Social Security Administration. Pursuant to 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Nannette A. Baker who filed a Report and Recommendation recommending that the Commissioner's decision to deny benefits should be affirmed.

A federal court reviews the decision of an Administrative Law Judge to determine whether the decision is supported by "substantial evidence" in the record as a whole. Smith v. Shalala, 31 F.3d 715, 717 (8th Cir. 1994). If the ALJ's findings are supported by substantial evidence, the findings are deemed to be conclusive and the ALJ's decision must be affirmed. Id. The ALJ's decision may not be reversed "merely because substantial evidence exists for the opposite decision." Lacroix v. Barnhart, 465 F.3d 881, 885 (8th Cir. 2006)(citation and quotation omitted). Nor can the decision be reversed because the reviewing court would have decided the case differently. Krogmeier v. Barnhart, 294 F.3d 1019, 1022 (8th Cir. 2002).

Plaintiff Keith Ivy initiated this claim for child insurance benefits on November 3, 2008 under Title II of the Social Security Act, 42 U.S.C. §§ 4001- 435.<sup>1</sup> Under this section of the Act

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<sup>1</sup> In a separate claim and proceeding with the Social Security Administration, Plaintiff has been deemed disabled since April 27, 2005 and qualified for SSI benefits. The present proceeding is unrelated to that determination. It seeks a ruling that Ivy is entitled to child

a claimant may qualify for benefits if he demonstrates he was disabled under the Act prior to attaining the age of 22. Ivy was born on July 23, 1974. He asserts that the onset of his disability began on January 1, 1985 when he was 10 years old. To support his claim for child insurance benefits, Ivy must establish that he was disabled before July 23, 1996 when he became 22 years old.

The background of this case is fully set forth in Judge Baker's Report and Recommendation. Ivy objects to Judge Baker's recommendation to affirm the ALJ's decision. I have conducted a de novo review of Ivy's claims, objections, and of the record in this matter. The ALJ concluded that Ivy failed to establish that he was disabled before July 23, 1996. I agree with Judge Baker's conclusion that the ALJ's decision is supported by substantial evidence.

Ivy's asserts an objection that he did not work in 1991 or in 1994 as stated in Judge Baker's Report and Recommendation. This objection is contradicted by the record. Ivy's Social Security records indicate he had earnings from working at National Super Markets in 1991 and from Cross Oil Company in 1994. (Tr. 124) Ivy's income from these jobs was very minimal. However, it was not considered by the ALJ in his determination that Ivy failed to establish that he was disabled. Similarly, Ivy's assertion that his mother did not make a statement on September 20, 1994, to Ivy's doctor that he did not need further treatment at the time for depression is contradicted by the doctor's notes in the medical record. Ivy's objections fail to undermine the fact that the ALJ's decision to deny benefits is supported by substantial evidence.


Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation of the United States Magistrate Judge Nannette A. Baker [#20] is **SUSTAINED, ADOPTED AND INCORPORATED** herein.

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insurance benefits under his deceased father's social security benefits because Ivy's disability began before he reached the age of 22 on July 23, 1996.

**IT IS FURTHER ORDERED** that the Commissioner's decision to deny Plaintiff Ivy child insurance benefits is **AFFIRMED** and this case is **DISMISSED**.

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 28th day of March, 2012.